



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2017–0081; 4500090024]

RIN 1018–BC54

**Endangered and Threatened Wildlife and Plants; Taxonomical Update for
Orangutan**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the revised taxonomy of the orangutan under the Endangered Species Act of 1973, as amended (Act). When we listed the orangutan in 1970, the listed entity included all orangutans in the genus *Pongo*. At that time, the scientific community recognized one species (*Pongo pygmaeus*) in the genus *Pongo*, which consisted of two subspecies (*P. pygmaeus pygmaeus* and *P. p. abelii*). However, the orangutan has recently been reclassified as belonging to two distinct species: *P. pygmaeus* and *P. abelii*. Therefore, we are revising the List of Endangered and Threatened Wildlife to reflect the current scientifically accepted taxonomy and nomenclature of the orangutan. Because all orangutans in the genus *Pongo* are already included under the original listing of *Pongo pygmaeus* as endangered under the Act, the newly recognized taxonomic species is considered part of the original listed entity, and this technical correction does not alter the regulatory

protections afforded to the orangutan. For the same reason, if other *Pongo* species emerge due to future taxonomic revisions to further subdivide the genus *Pongo*, they would be encompassed by the original listing and this technical correction.

DATES: This rule is effective Insert date 90 days after date of publication in the Federal Register without further action, unless we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed on or before Insert date 30 days after date of publication in the Federal Register. If we receive significant scientific information regarding this taxonomic change for the orangutan, we will publish a timely withdrawal of this rule in the *Federal Register*.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–HQ–ES–2017–0081, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, you may submit a comment by clicking on “Comment Now!”

- *By hard copy:* Submit comments by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–HQ–ES–2017–0081; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC; Falls Church, VA 22041-3803.

See **Public Comments**, below, for more information about submitting comments.

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service; MS: ES,

5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone, 703–358–2171. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

You may submit your comments and materials regarding this direct final rule by one of the methods listed in **ADDRESSES**. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include. We will not consider comments sent by email or fax, or to an address not listed in **ADDRESSES**.

We will post all comments on <http://www.regulations.gov>. Before including your address, phone number, email address, or other personal information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this direct final rule, will be available for public inspection on the Internet at <http://www.regulations.gov>. Please note that comments posted to <http://www.regulations.gov> are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after the submission.

Information regarding this rule is available in alternative formats upon request (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

In a final rule published in the *Federal Register* on June 2, 1970 (35 FR 8491), we listed the orangutan (*Pongo pygmaeus*) under the Act's precursor, the Endangered Species Conservation Act of 1969 (Pub. L. 91–135), as an endangered species, and since then, the species has remained listed as an endangered species under the Act (16 U.S.C. 1531 *et seq.*).

This Rule

Background

We are directed by title 50 of the Code of Federal Regulations (CFR) at §§ 17.11(c) and 17.12(b) (50 CFR 17.11(c) and 17.12(b)) to use the most recently accepted scientific name of any wildlife or plant species, respectively, that we have determined to be an endangered or threatened species.

Taxonomy

Orangutans were historically classified as one species with two subspecies, *Pongo pygmaeus pygmaeus* and *P. p. abelii*. In accordance with taxonomic classifications at the time, we listed the orangutan in 1970, recognizing one species of orangutan (*Pongo pygmaeus*) as the listed entity occurring in Indonesia, Malaysia, and Brunei (35 FR 8491; June 2, 1970). However, the orangutan, currently only found in northern Sumatra (Indonesia) and Borneo (Indonesia and Malaysia), has recently been reclassified as belonging to two distinct species: *P. pygmaeus*, which occurs in Borneo (Malaysia and

Indonesia), and *P. abelii*, which occurs in northern Sumatra (Indonesia) (Groves, in WWF Orangutan Action Plan, 1999, p. 27; Singleton *et al.* 2016, p. 3; Singleton *et al.* 2004, p. 181; Xu and Arnason 1996, p. 435; Brandon-Jones *et al.* 2004, pp. 153–155; Zhang *et al.* 2001, pp. 522–525). Additionally, orangutans in Borneo (*P. pygmaeus*) are now recognized to contain three subspecies (*P. pygmaeus pygmaeus*, *P. p. wurmbii*, and *P. p. morio*) (Brandon-Jones *et al.* 2004, pp. 181, 193).

While some scientists question the data and effectiveness of elevating Sumatran and Bornean orangutans to full species (Muir 1998, p. 378; Muir *et al.* 2000, pp. 476–479), species-level classification was advocated jointly in April 2000, by Conservation International, the International Union for the Conservation of Nature Species Survival Commission’s Primate Specialist Group, and the Center for Environmental Research and Conservation (Orangutan Species Survival Plan 2015). The newer classification recognizing two distinct species is widely accepted today by most experts based on genetic and morphological data (Singleton *et al.* 2016, p. 3; Ancrenaz *et al.* 2016, p. 3).

The entity that resides closest to Brunei is a subspecies of *P. pygmaeus*. Individual orangutans in Brunei are described as transient, and no permanent populations have been reported there (World Atlas of Great Apes and Their Conservation 2005, p. 427; Orangutan Foundation International 2017, no pagination).

Taxonomic Corrections Made in this Rule

All orangutan populations are encompassed by the previous listed entity, *Pongo pygmaeus*. Using the best available scientific information, this direct final rule documents the reclassification of the orangutan as two distinct species, *Pongo pygmaeus* and *Pongo*

abelii, on the List of Endangered and Threatened Wildlife (50 CFR 17.11(h)). This change is supported by published studies in peer-reviewed journals, and it does not affect the range or endangered status of the orangutan. If other *Pongo* species emerge due to future taxonomic revisions to further subdivide the genus *Pongo*, they would be encompassed by the original listing and this technical correction.

Use of Direct Final Rule

The purpose of this direct final rule is to notify the public that we are revising the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h) to reflect the scientifically accepted taxonomy and nomenclature of the orangutan. In accordance with 50 CFR 17.11(c), we are revising the taxonomy of the orangutan to reflect the reclassification of the previously listed entity into two distinct species, acknowledging both *Pongo pygmaeus* and *P. abelii* as endangered species under the Act.

We are publishing this final rule without a prior proposal because this is a technical action that is in the best interest of the public and should be undertaken in as timely a manner as possible. It does not alter the regulatory protections afforded to the orangutan but is a taxonomic revision necessary to acknowledge that both *Pongo pygmaeus* and *Pongo abelii* retain endangered status under the Act.

This rule will be effective, as published in this document, on the effective date specified in **DATES**, unless we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed on or before the comment due date specified in **DATES**.

If we receive comments containing significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed regarding the taxonomic change for the orangutan, we will publish a document in the *Federal Register* withdrawing this rule before the effective date. If the rule is withdrawn, we may publish a proposed rule to initiate promulgation of this taxonomic revision or we may end the rulemaking process.

Required Determinations

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations issued pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (43 FR 49244).

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To help us to revise this rule, your comments should be as specific as possible.

List of References Cited

A list of the references cited in this direct final rule is provided in Docket No. FWS–HQ–ES–2017–0081 at <http://www.regulations.gov>.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

AUTHORITY: 16 U.S.C. 1361-1407; 1531-1544; and 4201-4245, unless otherwise noted.

2. Amend § 17.11(h) by adding an entry for “Orangutan” [*Pongo abelii*] in alphabetical order by common and scientific name and revising the entry for “Orangutan” [*Pongo pygmaeus*] under MAMMALS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

| Common name | Scientific name | Where listed | Status | Listing citations and applicable rules |
|-------------|-----------------------|----------------|--------|--|
| MAMMALS | | | | |
| * * * * * | | | | |
| Orangutan | <i>Pongo abelii</i> | Wherever found | E | 35 FR 8491, 6/2/1970; 83 FR [Insert <i>Federal Register</i> page where the document begins], [Insert date of publication in the <i>Federal Register</i>]. |
| Orangutan | <i>Pongo pygmaeus</i> | Wherever found | E | 35 FR 8491, 6/2/1970; 83 FR [Insert <i>Federal Register</i> page where the document begins], [Insert date of publication in the <i>Federal Register</i>]. |
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Dated: December 13, 2017.

James W. Kurth,
Deputy Director,
U.S. Fish and Wildlife Service,
exercising the authority of the Director,
U.S. Fish and Wildlife Service.
[FR Doc. 2018-00610 Filed: 1/12/2018 8:45 am; Publication Date: 1/16/2018]